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Proposed Attorneys for State Court Receiver
CORDES & COMPANY, LLC THROUGH
AND BY BELLANN RAILE

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re Case No. 8:21-bk-10525-ES

THE SOURCE HOTEL, LLC, Chapter 11

Debtor.

Chapter 11

Chapter 11

STIPULATION RESOLVING INTERIM PAYMENT OF RECEIVER'S FEES AND EXPENSES IN LIEU OF RECEIVER'S OBJECTION TO MOTION FOR ENTRY OF ORDER APPROVING SETTLEMENT WITH SHADY BIRD LENDING, LLC AND GUARANTORS, AS SET FORTH IN THAT CERTAIN STIPULATION FOR RELIEF FROM THE AUTOMATIC STAY AND ANCILLARY RELIEF

[RELATES TO DOCKET NOS. 188 and 190]

1 Debtor The Source Hotel, LLC (“Debtor”), Shady Bird Lending, LLC (“Shady Bird”), and
2 State Court Receiver Cordes & Company, LLC through and by Bellann Raile, through and by their
3 attorneys of record stipulate as follows:

4 **WHEREAS**, Shady Bird is the holder of the senior deed of trust on a partially constructed
5 178-room, seven story hotel building located in Buena Park, California (the “Property” or “Project”)
6 located on real property bearing APN Nos. 276-361-20 and 276-361-22, which the debtor and debtor
7 in possession, The Source Hotel, LLC (the “Debtor”), leases pursuant to a ground lease dated April
8 6, 2015 from the lessor, The Source at Beach, LLC.

9 **WHEREAS**, On or about February 8, 2021, Shady Bird filed its complaint against the
10 Debtor in the Superior Court of California, County of Orange (the “State Court”) for (i) specific
11 performance for appointment of a receiver, and (ii) waste, thereby commencing the State Court
12 action bearing Case No. 30-2021-01183489-CU-OR-CJC (the “State Court Action”).

13 **WHEREAS**, shortly after filing the State Court Action, Shady Bird filed, among other
14 things, its “Ex Parte Application for: (1) Order Appointing Receiver; (2) Temporary Restraining
15 Order; and (3) Order to Show Cause Re: Confirmation of Appointment of Receiver and Preliminary
16 Injunction in Aid of Receiver; Memorandum of Points and Authorities in Support Thereof” (the
17 “Receivership Application”).

18 **WHEREAS**, on February 17, 2021, the State Court granted the Receivership Application
19 and entered its “Ex Parte Order Appointing Receiver and Order to Show Cause and Temporary
20 Restraining Order – Rents, Issues, and Profits” (the “Receivership Order”), pursuant to which,
21 among other things, Bellann R. Raile (the “Receiver”) was appointed receiver for the Project.

22 **WHEREAS**, on or about, February 26, 2021 (the “Petition Date”), the Debtor filed a
23 voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy
24 Code”) in the United States Bankruptcy Court for the Central District of California, Santa Ana
25 Division (the “Bankruptcy Court”) as Case No. 8:21-bk-10525-ES (the “Bankruptcy Case”).

26 **WHEREAS**, on or about March 25, 2021, Shady Bird filed its “Motion of Shady Bird
27 Lending, LLC for Order Excusing State Court Receiver from Turnover Assets Pursuant to 11 U.S.C.
28 § 543; Memorandum of Points and Authorities; Declarations of Ronald Richards, Bellann R. Raile,

1 and Brent Little in Support Thereof" (the "Section 543 Motion") which the Debtor opposed [Dkts.
2 65-66], and Shady Bird replied [Dkt. 72].

3 **WHEREAS**, on April 28, 2021, the Bankruptcy Court entered its "Order, After Hearing,
4 Granting, on an Interim Basis, Motion of Shady Bird Lending, LLC for Order Excusing State Court
5 Receiver From Turnover of Assets Pursuant to 11 U.S.C. § 543" (the "First Interim Receiver
6 Order").

7 **WHEREAS**, on July 1, 2021, the Bankruptcy Court entered its "Second Interim Order
8 Regarding Motion of Shady Bird Lending, LLC for Order Excusing State Court Receiver from
9 Turnover of Assets Pursuant to 11 U.S.C. § 543" (the "Second Interim Receiver Order").

10 **WHEREAS**, on July 7, 2021, the Receiver filed its "Receiver's Interim Status Report and
11 Accounting [Federal Rule of Bankruptcy Procedure 6002]" ("Receiver's Interim Report") [Dkt.
12 186]. As set forth in the Receiver's Interim Report, the Receiver has incurred \$116,757.36 in fees
13 and expenses (including those of her counsel) through June 30, 2021 (the "Receiver's Incurred
14 Fees") the Receiver has not been paid to date, and Shady Bird has provided partial funding for such
15 fees and expenses.

16 **WHEREAS**, on July 19, 2021, the Debtor, Shady Bird, and certain other parties entered into
17 a Stipulation for Relief from the Automatic Stay and Ancillary Relief ("RFS and Ancillary Relief
18 Stipulation") [Dkt. 188].

19 **WHEREAS**, paragraph 5 of the RFS and Ancillary Relief Stipulation provides that "All
20 reasonable fees and costs incurred by the Receiver in excess of the \$200,000 previously gifted by
21 Shady Bird (the "Gifted Advance"), as detailed in the First Interim Receiver Order and the Second
22 Interim Receiver Order, shall be added to the Debtor's outstanding debt and Shady Bird's claim
23 against the Debtor, with any dispute over the reasonableness of the Receiver's fees and costs, Shady
24 Bird's attorneys' fees and costs, trustee fees and other fees, charges, and costs due under the
25 operative loan agreement, to be resolved by the Bankruptcy Court (collectively, the "Bankruptcy
26 Court Determined Fees and Costs")." The parties shall try and resolve by August 18, 2021 any
27 disputes about Shady Bird's fees through informal settlement discussions. If they are not able to
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1 resolve those fees, the RFS and Ancillary Relief Stipulation provides a mechanism for this Court to
2 resolve such fees and costs.

3 **WHEREAS**, on July 22, 2021, the Debtor filed a “Motion for Entry of Order Approving
4 Settlement with Shady Bird Lending, LLC and Guarantors, as Set Forth in that Certain Stipulation
5 for Relief from the Automatic Stay and Ancillary Relief, and Granting Related Relief” (the
6 “Settlement Motion”) [Dkt. 190], and is set for hearing on August 12, 2021.

7 **WHEREAS**, the Receiver’s deadline to object to the Settlement Motion is July 29, 2021.
8 The Receiver, Shady Bird, and the Debtor have resolved the Receiver’s potential objection to the
9 Settlement Motion and, more specifically, the Receiver’s concerns regarding the funding and
10 payment of the Receiver’s Incurred Fees, in accordance with the terms and conditions set forth in
11 this Stipulation.

12 **WHEREFORE**, based on the foregoing paragraphs, the Debtor, Shady Bird and Receiver
13 hereby stipulate and agree, subject to the Court’s approval of the Settlement Motion and this
14 Stipulation, that:

15 1. \$25,000.00 of the Receiver’s Incurred Fees shall be funded from the Gifted Advance.
16 2. Shady Bird shall be authorized to fund the Receiver’s Incurred Fees and the Receiver
17 shall be authorized to receive an interim payment of the Receiver’s Incurred Fees (including those of
18 her counsel), subject to the Debtor’s right to challenge the reasonableness of the Receiver’s Incurred
19 Fees at a later date (if necessary), which right is expressly reserved, and subject to the terms of the
20 RFS and Ancillary Relief Stipulation.

21 DATED: July 29, 2021

JAZ, A PROFESSIONAL LEGAL CORPORATION

23 By:



24 Peter F. Jazayeri
25 Attorneys for State Court Receiver
26 CORDES & COMPANY, LLC BY AND THROUGH
27 BELLANN RAILE

1 DATED: July 29, 2021

2 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

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Juliet Oh

By: _____

Ron Bender
Juliet Y. Oh
Attorneys for Debtor,
THE SOURCE HOTEL, LLC

10 DATED: July 28, 2021

11 LAW OFFICES OF RONALD RICHARDS &
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10 DATED: July 28, 2021

11 LAW OFFICES OF RONALD RICHARDS &

12 ASSOCIATES, A PC

Ronald Richards

By: _____

Ronald Richards
Attorneys for SHADY BIRD LENDING, LLC

13 DATED: July 28, 2021

14 SULMEYERKUPETZ, A PROFESSIONAL
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13 DATED: July 28, 2021

14 SULMEYERKUPETZ, A PROFESSIONAL

15 CORPORATION

Daniel A. Lev

By: _____

Daniel A. Lev
Attorneys for SHADY BIRD LENDING, LLC

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 1100 Glendon Avenue, Suite 1500, Los Angeles, CA 90024.

A true and correct copy of the foregoing document entitled (specify): ***STIPULATION RESOLVING INTERIM PAYMENT OF RECEIVER'S FEES AND EXPENSES IN LIEU OF RECEIVER'S OBJECTION TO MOTION FOR ENTRY OF ORDER APPROVING SETTLEMENT WITH SHADY BIRD LENDING, LLC AND GUARANTORS, AS SET FORTH IN THAT CERTAIN STIPULATION FOR RELIEF FROM THE AUTOMATIC STAY AND ANCILLARY RELIEF*** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On July 29, 2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On July 29, 2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

None

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on July 29, 2021, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Federal Express

Honorable Erithe A. Smith
US Bankruptcy Court – Santa Ana Division
Ronald Reagan Federal Building
411 West 4th Street, #5040
Santa Ana, CA 92701

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

July 29, 2021
Date

Toni Gesin

Printed Name


Signature

ATTACHMENT TO F 9013-3.1.PROOF.SERVICE

Via NEF

- **Attorney for Debtor: Ron Bender** rb@lnbyb.com
- **Christopher G. Cardinale** ccardinale@agclawfirm.com, mgonzalez@agclawfirm.com
- **Michael G Fletcher** mfletcher@frandzel.com, sking@frandzel.com
- **Amir GamlieI** amir-gamlieI-9554@ecf.pacerpro.com, cmallahI@perkinscoie.com;DocketLA@perkinscoie.com
- **Robert P Goe** kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com
- **Attorney for U.S. Trustee: Nancy S Goldenberg** nancy.goldenberg@usdoj.gov
- **Attorney for Receiver in State Court: Peter F Jazayeri** peter@jaz-law.com
- **Attorney for Shady Bird: Daniel A Lev** dlev@sulmeyerlaw.com, ccaldwell@sulmeyerlaw.com;dlev@ecf.inforuptcy.com
- **Kyle J Mathews** kmathews@sheppardmullin.com
- **Attorney for Debtor: Juliet Y Oh** jyo@lnbrb.com, jyo@lnbrb.com
- **Ho-El Park** hpark@hparklaw.com
- **Attorney for Shady Bird: Ronald N Richards** ron@ronaldrichards.com, morani@ronaldrichards.com
- **United States Trustee (SA)**: ustpregion16.sa.ecf@usdoj.gov